

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

AARON J. NICHOLS, *et al.*, :  
 :  
 Plaintiffs : CIVIL ACTION NO. 4:21-218  
 :  
 v. : (MANNION, D.J.)  
 : (ARBUCKLE, M.J.)  
 C.O. KONYCKI, *et al.*, :  
 :  
 Defendants :

**ORDER**

In accordance with the memorandum issued this same day, **IT IS  
HEREBY ORDERED THAT:**

(1) The defendants initial objection to the report and recommendation (**Doc. 44, Doc. 45**) is **SUSTAINED**.

(2) The report and recommendation of Judge Arbuckle (**Doc. 42**) is **ADOPTED IN PART AND NOT ADOPTED IN PART**.

(3) The defendants' motion to dismiss (**Doc. 36**) is **GRANTED IN PART AND DENIED IN PART**.

(4) The motion to dismiss is **GRANTED** to the extent that all official capacity claims against all defendants are dismissed, the excessive force against defendant Konycki is dismissed, and all claims against defendants Stockholm, Yost, Bronsburg, Klick

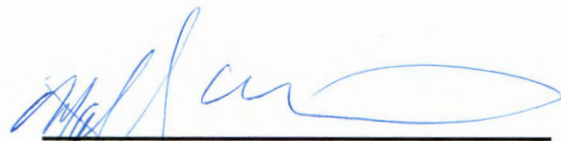
and Wassel are dismissed. The motion is **DENIED** to the extent that the deliberate indifference to medical claim and conditions of confinement claim against defendants Konycki and Scott will proceed.

**(5)** If they choose to do so, the plaintiffs are to file a second amended complaint on or before **Monday, October 23, 2023**.

The plaintiffs' second amended complaint shall be complete, in and of itself, without reference to any prior filings. The plaintiffs' second amended complaint shall include any and all defendants whom the plaintiffs wish to name in this action. The plaintiffs' second amended complaint must include appropriate allegations of each defendants' personal involvement in any alleged constitutional violation(s). In separate counts, the plaintiffs' second amended complaint must specifically state which constitutional right they allege the defendant(s) related to each particular count have violated. In all other respects, the plaintiffs' second amended complaint must comply with the pleading requirements of the Federal Rules of Civil Procedure and the Local Rules for the Middle District of Pennsylvania. Should the plaintiffs fail to file their second amended complaint within the

required time period, or fail to follow the above mentioned procedures, the action will only proceed as to the deliberate indifference to medical claim and conditions of confinement claim against defendants Konycki and Scott.

(6) The instant action is **REMANDED** to Judge Arbuckle for all further pre-trial matters.



**MALACHY E. MANNION**

**United States District Judge**

**DATE: September 28, 2023**

21-218-01-ORDER